

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

MICHAEL ANTHONY DAVIS,)
vs. Plaintiff,) NO. CIV-10-1136-HE
UNITED STATES OF AMERICA, et al.,)
Defendants.)

ORDER

Plaintiff Michael A. Davis, a federal prisoner appearing *pro se* and *in forma pauperis*, filed this action asserting claims under the Federal Tort Claims Act (“FTCA”) and the Privacy Act.¹ Consistent with 28 U.S.C. § 636(b)(1)(B), the matter was referred to Magistrate Judge Gary M. Purcell, who has recommended that plaintiff’s claims be dismissed pursuant to 28 U.S.C. §§ 1915A(2) and 1915(e)(2)(B).

Plaintiff has filed an objection to the Report and Recommendation in which, rather than addressing the magistrate judge's findings and conclusions, he asserts that everyone has ignored the fact that the charges against him were dismissed. Plaintiff is correct that the original indictment was dismissed. Objection, Exhibit D., Doc. Nos. 140, 142. However, that occurred after a superseding indictment charging plaintiff with conspiring to distribute a controlled substance and distribution of a controlled substance had been filed. *Id.*, Doc. #98.

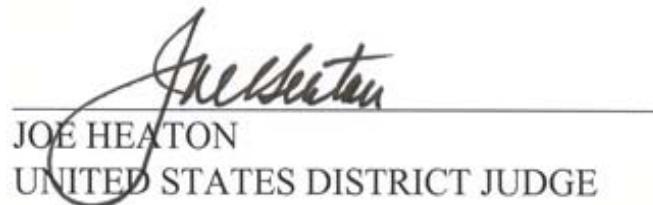
The court agrees with Magistrate Judge Purcell's analysis of plaintiff's claims and

¹Plaintiff asserts in his Objection to the Supplemental Report and Recommendation that he is not asserting Bivens claims, but rather is seeking relief under the FTCA.

adopts his Report and Recommendation. Accordingly, plaintiff's claims against defendant Couch and his Privacy Act claims are dismissed with prejudice for failure to state a claim. His FTCA claims against the United States and his claims against the individual federal defendants are dismissed without prejudice.

IT IS SO ORDERED.

Dated this 18th day of February, 2011.



JOE HEATON
UNITED STATES DISTRICT JUDGE